

D. Maimon Kirschenbaum (DK-2338)
Charles E. Joseph (CJ-9442)
JOSEPH & HERZFELD LLP
757 Third Avenue
25th Floor
New York, NY 10017
Tel: (212) 688-5640
Fax: (212) 688-2548

*Attorneys for Plaintiffs and proposed collective
action and class action members*

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**BRANDON SALUS, and ALAN FELIX
IPANAQUE CORDOVA, on behalf of
themselves and others similarly situated,**

INDEX NO: 07cv03142-GBD-DCF

Plaintiffs,

**FLSA COLLECTIVE ACTION AND
RULE 23 CLASS ACTION**

v.

**TSE GROUP LLC d/b/a B.B. KING BLUES
CLUB AND GRILL and TSION BENSUSAN**

Defendants.

DECLARATION OF DAVID CZYZYK

I, David Czyzyk, under penalty of perjury, swear/affirm as follows:

1. My name is David Czyzyk.
2. I was employed by TSE Group as a server at B.B. King Blue Club ("B.B. King") from the end of 2005 until July of 2006.
3. When I worked in excess of 40 hours per week at B.B. King, I was not paid an overtime premium. This is reflected on my attached paystubs.

4. When I began working at B.B. King, I was told by Ben Javreck that it was B.B. King's practice not to pay servers for their first four or five shifts. I was not paid at all for my first four or five shifts.

5. I was informed by B.B. King's management, specifically Gabby Brechner and Anthony (last name unknown) that its practice is to charge an employee for a customer's bill when that customer does not pay the bill. For example, when a customer walks out without paying his bill (a "walk-out"), the restaurant forces the waiter to pay for the customer's bill.

6. I was several times forced to pay for walk-outs. On one occasion I paid close to \$200 to cover a walk-out's bill.

7. My paychecks consistently reflected unexplainable \$5 reductions. Upon inquiry, I was told by B.B. King's accountant, Andy Clark, that the deduction went to cover porters' salaries.

8. I frequently worked in excess of 10 hours a day. I did not receive New York's "spread of hours" pay for those days.

9. On June 20, 2007, I was informed by several B.B. King employees that the company had offered to pay them amounts of money as reimbursement for the \$5 deductions that was deducted from their paychecks. To receive the money, employees were required to sign a release form purporting to release the company from any claims that the employee may have against it. One employee provided me with a copy of the employee's release form. (A true and correct copy of this release form is attached to this declaration.) One employee told me that Tsion Bensusan himself had offered the employee money in exchange for an executed release form.

I swear/affirm, under penalty of perjury, that the above and foregoing information
is true and correct.

Dated: June 25, 2007


David Czyzyk

EXHIBIT A

EMP. #	DEPT.	NAME				S.S.C. #	PAY PERIOD	CHK DATE
C99	10	DAVID CZYZYK					02/19/06	02/24/06
HOURS		EARNINGS				DEDUCTIONS		
REG.	O.T.	TYPE	RATE	AMOUNT	TYPE	AMOUNT		
44.25		REG PAY	4.3500	192.49				
		TIPS CC		631.26				
		MISC		160.57				
		MISC		-5.00				
		GROSS	F.I.C.A.	FED.	STATE	LOCAL	SUI/SDI	NET PAY
CURRENT		979.32	74.92	152.25	48.94	29.10	0.60	673.51
YTD		4314.41	330.06	490.17	164.03	101.22	4.77	

EXEMPT S 1

TSE GROUP LLC

CK.# 37251

EMP. #	DEPT.	NAME				S.S.C. #	PAY PERIOD	CHK DATE
C99	10	DAVID CZYZYK					04/09/06	04/14/06
HOURS		EARNINGS				DEDUCTIONS		
REG.	O.T.	TYPE	RATE	AMOUNT	TYPE	AMOUNT		
45.25		REG PAY	4.3500	196.84				
		TIPS CC		421.32				
		MISC		8.55				
		MISC		-5.00				
		GROSS	F.I.C.A.	FED.	STATE	LOCAL	SUI/SDI	NET PAY
CURRENT		621.71	47.56	69.03	24.45	15.15	0.60	464.92
YTD		8010.87	612.84	905.49	305.06	188.18	8.95	

EXEMPT S 1

TSE GROUP LLC

CK.# 37109

EMP. #	DEPT.	NAME				S.S.C. #	PAY PERIOD	CHK DATE
C99	10	DAVID CZYZYK					04/02/06	04/07/06
HOURS		EARNINGS				DEDUCTIONS		
REG.	O.T.	TYPE	RATE	AMOUNT	TYPE	AMOUNT		
43.50		REG PAY	4.3500	189.23				
		TIPS CC		472.20				
		MISC		142.80				
		MISC		-5.00				
		GROSS	F.I.C.A.	FED.	STATE	LOCAL	SUI/SDI	NET PAY
CURRENT		799.23	61.14	107.23	36.61	22.07	0.60	571.58
YTD		7389.16	565.28	836.46	260.61	173.03	8.35	

EXEMPT S 1

EMP. #	DEPT.	NAME		S.S.C. #	PAY PERIOD	CHK DATE		
C99	10	DAVID CZYZYK			03/19/06	03/24/06		
HOURS		EARNINGS			DEDUCTIONS			
REG.	O.T.	TYPE	RATE	AMOUNT	TYPE	AMOUNT		
48.75		REG PAY	4.3500	212.06				
		TIPS CC		576.18				
		MISC		18.70				
		MISC		-5.00				
	GROSS	F.I.C.A.	FED.	STATE	LOCAL	SUI/SDI	TOTAL DED.	NET PAY
CURRENT	801.94	61.35	107.91	36.79	22.18	0.60	228.83	573.1
YTD	6032.35	461.49	669.82	223.95	138.23	7.15		

EXEMPT S 1

EXHIBIT B

Acknowledgement and Release

I, [REDACTED], am currently employed as a server at B.B. King Blues Club and Grill (the "Restaurant").

I acknowledge that, in accordance with my request, the Restaurant had deducted \$5.00 per week from my weekly pay.

I understand that the Restaurant no longer makes such deductions from my pay. In that connection, the Restaurant has provided me with a check for [REDACTED] (\$[REDACTED]), less applicable payroll deductions (the "Check"), which is in excess of the total amount of the deductions that the Restaurant has made from my pay throughout my employment at the Restaurant.

In exchange for the payments in the Check, I agree to and hereby do release and discharge the Restaurant, its parents, subsidiaries, affiliates and their successors or assigns, directors, officers, representatives and employees from any and all claims arising out of my employment at the Restaurant occurring up and including the date that I signed this Acknowledgement and Release. This Acknowledgement and Release includes, but is not limited to, any claims arising under the Fair Labor Standards Act of 1938, the New York Labor Law or any other federal, state or local laws, rules or regulations.

I further acknowledge and agree that neither the Check nor this Acknowledgement and Release constitutes an admission by the Restaurant of any liability. I also acknowledge that I have been paid properly by the Restaurant for all hours worked.

[REDACTED]
Employee Name

[REDACTED]
Date